

Office of the Secretary, Education

§ 30.27

to provide in accordance with paragraph (b)(1) of this section.

(Approved by the Office of Management and Budget under control number 1880-0515)

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

[51 FR 24099, July 1, 1986, as amended at 51 FR 35647, Oct. 7, 1986]

§ 30.26 What special rules apply to an oral hearing?

(a) The oral hearing under § 30.25 is not a formal evidentiary hearing subject to 5 U.S.C. 554, unless required by law.

(b) If the Secretary grants an oral hearing, the Secretary notifies the debtor in writing of:

(1) The time and place for the hearing;

(2) The debtor's right to representation; and

(3) The debtor's right to present and cross examine witnesses.

(c) If the Secretary grants an oral hearing, the Secretary designates an official to:

(1) Govern the conduct of the hearing;

(2) Take all necessary action to avoid unreasonable delay in the proceedings;

(3) Review the evidence presented at the hearing, the documents submitted by the debtor, and other relevant evidence; and

(4) After considering the evidence, notify the debtor in writing of the official's decision regarding the issues identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii) and, if appropriate, the question of waiver of the debt.

(d) The official designated under paragraph (c) of this section may decline to hear any witnesses or testimony not identified by the debtor in accordance with § 30.25(b)(2).

(e) The decision of the designated official under paragraph (c) of this section constitutes the final decision of the Secretary.

(Authority: 20 U.S.C. 1221-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

§ 30.27 When does the Secretary enter into a repayment agreement rather than offset?

(a) If a debtor wants an opportunity to enter into a written agreement to repay a debt on terms acceptable to the Secretary, the debtor must:

(1) File a request to enter into such agreement within 20 days after the date of the notice provided under § 30.22; and

(2) File the request at the address specified in the notice.

(b) A request filed under paragraph (a) of this section must contain all information provided to the debtor in the notice under § 30.22 or § 30.33(b) that identifies the debtor and the debt, including the debtor's Social Security number and the program under which the debt arose, together with any corrections of that identifying information.

(c) If the Secretary receives a request filed in accordance with this section, the Secretary may enter into a written agreement requiring repayment in accordance with 4 CFR 102.11, instead of offsetting the debt.

(d) In deciding whether to enter into the agreement, the Secretary may consider:

(1) The Government's interest in collecting the debt; and

(2) Fairness to the debtor.

(e)(1) A debtor that enters into a repayment agreement with the Secretary under this section waives any right to further review by the Secretary of the issues relating to the original debt identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii).

(2) If a debtor breaches a repayment agreement, the Secretary may offset, or, under § 30.30, refer to another agency for offset:

(i) The amount owing under the agreement; or

(ii) The entire original debt, to the extent not repaid.

(Authority: 20 U.S.C. 1221-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

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